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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 PHILIP RICCIARDI,

12 Plaintiff,

13 v.

14 MICHAEL R. LYNCH, et al.

15 Defendants,

16 -and-

17 HEWLETT-PACKARD COMPANY,

18 Nominal Defendant.  
19  
20

**CASE NO. 12-CV-06003**

**STIPULATION AND [PROPOSED]  
ORDER CONSOLIDATING  
SHAREHOLDER DERIVATIVE  
ACTIONS AND SETTING SCHEDULE  
FOR FILING OF A CONSOLIDATED  
COMPLAINT AND FURTHER  
PROCEEDINGS**

Judge: Hon. Charles R. Breyer

Complaint Filed: November 26, 2012

21 *[Caption continues on following page.]*  
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1 ERNESTO ESPINOZA,  
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3 Plaintiff,  
4 v.  
5 MICHAEL R. LYNCH, et al.  
6 Defendants,  
7 -and-  
8 HEWLETT-PACKARD COMPANY,  
9 Nominal Defendant.

**CASE NO. 12-CV-06025**

Judge: Hon. Charles R. Breyer  
Complaint Filed: November 27, 2012

11 ANDREA BASCHERI, et al,  
12 Plaintiffs,  
13 v.  
14 LEO APOTHEKER, et al.  
15 Defendants,  
16 -and-  
17 HEWLETT-PACKARD COMPANY,  
18 Nominal Defendant.

**CASE NO. 12-CV-06091**

Judge: Hon. Charles R. Breyer  
Complaint Filed: November 30, 2012

20 MARTIN BERTISCH,  
21 Plaintiff,  
22 v.  
23 LEO APOTHEKER, et al.  
24 Defendants,  
25 -and-  
26 HEWLETT-PACKARD COMPANY,  
27 Nominal Defendant.

**CASE NO. 12-CV-06123**

Judge: Hon. Charles R. Breyer  
Complaint Filed: December 3, 2012

**STIPULATION AND [PROPOSED] ORDER**

Page 2

1 CITY OF BIRMINGHAM RETIREMENT  
2 AND RELIEF SYSTEM,

3 Plaintiff,

4 v.

5 LEO APOTHEKER, et al.

6 Defendants,

7 -and-

8 HEWLETT-PACKARD COMPANY,

9 Nominal Defendant.  
10

11 JOSEPH TOLA,

12 Plaintiff,

13 v.

14 MICHAEL R. LYNCH, et al.

15 Defendants,

16 -and-

17 HEWLETT-PACKARD COMPANY,

18 Nominal Defendant.  
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**CASE NO. 12-CV-06416**

Judge: Hon. Charles R. Breyer

Complaint Filed: December 18, 2012

**CASE NO. 12-CV-06423**

Judge: Hon. Charles R. Breyer

Complaint Filed: December 18, 2012

1 STANLEY MORRICAL,  
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3 Plaintiff,  
4 v.  
5 MARGARET C. WHITMAN, et al.  
6  
7 Defendants,  
8 -and-  
9 HEWLETT-PACKARD COMPANY,  
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28 Nominal Defendant.

**CASE NO. 12-CV-06434**

Judge: Hon. Charles R. Breyer  
Complaint Filed: December 19, 2012

**STIPULATION AND [PROPOSED] ORDER**

Page 4

1 WHEREAS, the following seven actions are now pending in the Northern District of  
2 California (collectively, the “HP Derivative Actions”):

3 *Philip Riccardi v. Michael R. Lynch et al.*, Case No. 12-cv-06003-CRB

4 *Ernesto Espinoza v. Michael R. Lynch et al.*, Case No. 12-cv-06025-CRB

5 *Andrea Bascheri et al. v. Leo Apotheker et al.*, Case No. 12-cv-06091-CRB

6 *Martin Bertisch v. Leo Apotheker et al.*, Case No. 12-cv-06123-CRB

7  
8 *City of Birmingham Retirement and Relief System v. Leo Apotheker et al.*,  
9 Case No. 12-cv-06416-CRB

10 *Joseph Tola v. Michael R. Lynch et al.*, Case No. 12-cv-06423-CRB

11 *Stanley Morrical v. Margaret C. Whitman et al.*, Case No. 12-cv-06434-CRB;

12 WHEREAS, the seven HP Derivative Actions are styled as shareholder derivative actions  
13 on behalf of Nominal Defendant Hewlett-Packard Company (“HP”), and each asserts claims that  
14 arise from or relate to HP’s acquisition of Autonomy Corporation PLC in 2011;

15 WHEREAS, the Court determined by order entered January 3, 2013 in the earlier-filed  
16 action entitled *Nicolow v. Hewlett-Packard Co.*, Case No. 12-cv-05980-CRB, that each of the  
17 seven HP Derivative Actions identified above are related pursuant to Local Rule 3-12(a), and all  
18 have been assigned to the Honorable Charles R. Breyer;<sup>1</sup>

19 WHEREAS, the HP Derivative Actions identified above all arise out of the same  
20 transactions and occurrences and involve the same or substantially similar issues of law and  
21 facts, and, therefore, should be consolidated for all purposes under Fed. R. Civ. P. 42(a);

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24 <sup>1</sup> The Court’s January 3, 2013 Order determined that ten pending actions are related  
25 to the earliest-filed case, which is a putative securities class action captioned *Nicolow v. Hewlett-*  
26 *Packard Co.*, Case No. 12-cv-05980-CRB (“*Nicolow*”). The pending actions related to *Nicolow*  
27 consist of (i) the seven HP Derivative Actions that are the subject of this Stipulation; (ii) a  
28 putative securities class action captioned *Pokoik v. Hewlett-Packard Co.*, Case No. 12-cv-06074-  
CRB (“*Pokoik*”); (iii) an ERISA action captioned *Laffen v. Hewlett-Packard Co.*, Case No. 12-  
cv-06199-CRB (“*Laffen*”); and (iv) an ERISA action captioned *Lustig v. Whitman*, Case No. 12-  
cv-06410-CRB (“*Lustig*”). The *Nicolow*, *Pokoik*, *Laffen*, and *Lustig* actions are not styled as  
shareholder derivative actions on behalf of HP and are not subject to this Stipulation.

1 WHEREAS, counsel for plaintiffs in the above referenced actions have met and  
2 conferred and have agreed to a schedule for filing a motion for lead plaintiff and lead counsel;

3 WHEREAS, counsel for plaintiffs, nominal defendant HP, and the undersigned  
4 defendants have met and conferred and have agreed to a schedule for filing a consolidated  
5 complaint following the appointment of lead plaintiff and lead counsel;

6 WHEREAS, counsel for plaintiffs, nominal defendant HP, and the undersigned  
7 defendants have met and conferred and have agreed that no answers, motions, or other responses  
8 to the complaints ("Responses") need be filed in the HP Derivative Actions by HP or by any  
9 other defendant until after the appointment of lead plaintiff and lead counsel and the filing of a  
10 consolidated complaint or designation of an operative complaint, as provided below;

11 WHEREAS, counsel for plaintiffs, nominal defendant HP, and the undersigned  
12 defendants have met and conferred and have agreed to a schedule setting a date for Responses to  
13 the consolidated complaint and a briefing schedule for any motions filed in response to the  
14 consolidated complaint unless otherwise ordered by the Court pursuant to motion or stipulation;

15 WHEREAS, counsel for nominal defendant HP has raised with plaintiffs' counsel issues  
16 regarding a potential stay pending determination of motions to dismiss in related class actions  
17 and staged briefing of motions in this action and will seek to meet and confer with the parties on  
18 these subjects regarding a potential stipulation and/or motion schedule following the  
19 appointment of lead plaintiff and lead counsel.

20 WHEREAS, the agreed-upon schedule is not for the purpose of delay, promotes judicial  
21 efficiency, and will not cause prejudice to any party,

22 NOW, THEREFORE, IT IS STIPULATED AND AGREED by plaintiffs and all  
23 defendants who have appeared in the HP Derivative Action, by and through their undersigned  
24 respective counsel of record, as follows:

25 **I. CONSOLIDATION OF ACTIONS**

26 1. The seven HP Derivative Actions identified above are hereby consolidated for all  
27 purposes, including pretrial proceedings, trial, and appeal.

2. The caption of these consolidated actions shall be "In re Hewlett-Packard Company Shareholder Derivative Litigation" and the files of these consolidated actions shall be maintained in one master file to be set by the Court. Thereafter, all seven of the original HP Derivative Action case files shall be closed.

3. Any other actions or claims filed in or removed or transferred to this Court after the date of this Stipulation that (i) are styled as shareholder derivative actions or claims brought on behalf of nominal defendant HP; and (ii) assert claims that arise from or relate to HP's acquisition of Autonomy Corporation PLC in 2011; and (iii) arise out of the same transactions and occurrences and involve the same or substantially similar issues of law and facts as the HP Derivative Actions, shall automatically be consolidated for all purposes, if and when they are brought to the Court's attention, together with *In re Hewlett-Packard Company Shareholder Derivative Litigation*, and the clerk shall close the file for any such later-filed actions.

4. Every pleading filed in the consolidated actions, or in any separate action included herein, shall bear the following caption:

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

---

IN RE HEWLETT-PACKARD COMPANY	MASTER DOCKET
SHAREHOLDER DERIVATIVE LITIGATION	NO.

---

THIS DOCUMENT RELATES TO:

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5. When a pleading or other filing is intended to be applicable to all actions, the words "All Actions" shall appear immediately after or below the words "THIS DOCUMENT RELATES TO:" in the caption set forth above. When a pleading or other filing is intended to be applicable to less than all actions, the separate caption and docket number for each individual action to which the pleading is intended to be applicable shall appear immediately after or below the words "THIS DOCUMENT RELATES TO:" in the caption described above.

**STIPULATION AND [PROPOSED] ORDER**

6. When a case or claim that properly belongs as part of *In re Hewlett-Packard Company Shareholder Derivative Litigation* is filed in this Court or transferred or removed to this Court from another court and assigned to Judge Breyer, then following the filing of notice by any party to such action or by a party to *In re Hewlett-Packard Company Shareholder Derivative Litigation* in such other action and this consolidated action, and service of such notice upon all parties that have appeared in the affected actions, the clerk of this Court shall:

(a) Place a copy of this Order in the separate file for such action;

(b) Mail to the attorneys for the plaintiff(s) in the newly filed or transferred case a copy of this Order and direct that this Order be served upon or mailed to any new defendant(s) or their counsel in the newly filed or transferred case;

(c) Make an appropriate entry on the Master Docket. Counsel recognizes that this Court requests the assistance of counsel in calling to the attention of the clerk of this Court the filing or transfer of any case which properly might be consolidated as part of *In re Hewlett-Packard Company Shareholder Derivative Litigation*; and

(d) Close the separate file for such action.

7. Counsel for the Defendants signing this Stipulation hereby certify that: (i) service of process has previously been effected or waived with respect to their clients as identified on their signature lines below; or (ii) to the extent their clients have not otherwise been served with process or appeared, counsel for the Defendants signing this Stipulation are authorized to and hereby do waive service of process on behalf of their clients identified below, provided that such waiver of service and the entry into this Stipulation shall not be deemed a waiver of any rights or defenses of any kind, including but not limited to the ability to assert the defense of lack of personal jurisdiction, all of which rights and defenses are expressly reserved.

8. Filing of documents via the Court's ECF system shall be deemed to satisfy the service requirement as to all parties who have appeared in the action and whose counsel receive ECF notices electronically. All attorneys of record in *In re Hewlett-Packard Company Shareholder Derivative Litigation* must register for ECF and must file an appearance through the ECF system. Any attorneys who have been admitted *pro hac vice* in any of the HP Derivative



1 Actions shall also be deemed admitted in *In re Hewlett-Packard Company Shareholder*  
 2 *Derivative Litigation* pursuant to the same conditions and requirements. No separate service of  
 3 documents is required on any party who has appeared in the action but is not registered for ECF.

4 9. The terms of this Order shall not have the effect of making any person or entity a  
 5 party to any action in which he, she, or it has not been named and properly served in accordance  
 6 with the Federal Rules of Civil Procedure. The terms of this Order and the consolidation and  
 7 coordination ordered herein shall not constitute a waiver by any party of any claims in or  
 8 defenses to any of the actions.

## 9 **II. SCHEDULE**

### 10 **A. Motions for Lead Plaintiff and Lead Counsel**

11 10. The following dates shall be in effect for motions for lead plaintiff/counsel in the  
 12 consolidated action:

13 January 25, 2013: Last Day to File Motions For Lead Plaintiff and Lead Counsel

14 February 8, 2013: Last Day to File Oppositions to Motions For Lead  
 15 Plaintiff and Lead Counsel

16 February 15, 2013: Last Day to File Replies To Any Opposition to Motions  
 17 For Lead Plaintiff and Lead Counsel

18 March 1, 2013: Hearing on Motions for Lead Plaintiff and Lead Counsel

### 19 **B. Existing Complaints**

20 11. The parties named as defendants in the pending complaints in the HP Derivative  
 21 Actions, including HP (collectively, "Defendants"), shall not be required to answer, file motions,  
 22 or otherwise take any action in response to any of the complaints currently on file in any of the  
 23 HP Derivative Actions. The time for such Defendants' answers, motions, or other responses  
 24 shall be determined as specified in Paragraph 14 below, following the filing of a consolidated  
 25 complaint or designation of an operative complaint, or as the Court hereafter may order. In the  
 26 event additional actions are subsequently consolidated into *In re Hewlett-Packard Company*  
 27 *Shareholder Derivative Litigation*, the parties named as defendants in the complaints in such  
 28 additional actions shall not be required to answer, file motions, or otherwise take any action in

1 response to such complaints until the time specified in Paragraph 14 or as otherwise specified by  
 2 the Court. No Defendant shall be deemed to have submitted to the jurisdiction of this Court or to  
 3 have waived or otherwise relinquished any rights, arguments, or defenses of any kind by not  
 4 filing an answer, motion or other response to any complaint in the consolidated action prior to  
 5 the date specified in Paragraph 14 below or other order of the Court. Pursuant to Local Rule 6-  
 6 1(a), this paragraph of this Stipulation shall be effective upon its filing with the Court.

7 **C. Filing of a Consolidated Complaint**

8 12. Lead plaintiff shall, within sixty (60) days following the entry and filing of the  
 9 Court's order selecting a lead plaintiff and lead counsel, serve and file a consolidated amended  
 10 complaint or designate a previously-filed complaint as the operative complaint (the  
 11 "Consolidated Complaint"), which will supersede all existing complaints filed in the HP  
 12 Derivative Actions and any other action that may be consolidated herewith. To the extent any  
 13 defendant now named in any of the HP Derivative Actions is not named in the Consolidated  
 14 Complaint, the claims against such defendant shall be deemed dismissed without prejudice.  
 15 Service shall be effected with respect to any named defendant by serving the Consolidated  
 16 Complaint on that defendant's counsel, unless such defendant has not previously been served or  
 17 appeared, in which case service shall be affected according to the Federal Rules of Civil  
 18 Procedure.

19 13. After the appointment of lead plaintiff and lead counsel, the parties shall submit to  
 20 the Court any stipulations that may be reached relating to HP's suggestions of a stay and/or the  
 21 staging of responses to the Consolidated Complaint within ten (10) days after the filing of the  
 22 Consolidated Complaint. If the parties do not otherwise stipulate and any party seeks to alter or  
 23 modify the schedule for Responses established in Paragraph 14, such party shall file an  
 24 appropriate motion with the Court seeking such relief.

25 14. Unless the Court otherwise orders pursuant to stipulation, motion, or for any other  
 26 reason, Defendants shall file their Responses to the Consolidated Complaint within sixty (60)  
 27 days following the filing of the Consolidated Complaint (provided, however, that the time  
 28 prescribed by the Federal Rules of Civil Procedure shall control to the extent those Rules provide

1 for a later response date as to any Defendant who has not been served, waived service, or  
 2 appeared in the action at the time of this Stipulation). In the event that Defendants file any  
 3 motions directed at the Consolidated Complaint, the opposition brief shall be filed within sixty  
 4 (60) days of the motions and the reply briefs shall be filed within thirty (30) days thereafter.  
 5 This stipulation is without prejudice to any party's right to move to continue any response(s) to  
 6 the Consolidated Complaint pursuant to the federal and local rules.

7  
 8  
 9 **IT IS SO STIPULATED.**

10 DATED: February 14, 2013

**COTCHETT, PITRE & McCARTHY, LLP**

11  
 12 By: /s/ Matthew K. Edling  
 13 MATTHEW K. EDLING

14 JOSEPH W. COTCHETT (Cal. SBN 36324)  
 15 MARK C. MOLUMPY (Cal. SBN 168009)  
 16 Nanci E. NISHIMURA (Cal. SBN 152621)  
 17 ARON K. LIANG (Cal. SBN 228936)  
 18 MATTHEW K. EDLING (Cal. SBN: 250940)  
 19 San Francisco Airport Office Center  
 20 840 Malcolm Road, Suite 200  
 21 Burlingame, CA 94010  
 22 Tel: (650) 697-6000  
 23 Fax: (650) 697-0577  
 24 jcotchett@cpmlegal.com  
 25 mmolumphy@cpmlegal.com  
 26 nnishimura@cpmlegal.com  
 27 aliang@cpmlegal.com  
 28 medling@cpmlegal.com

*Attorneys for Plaintiff Stanley Morrical*

1 DATED: February 14, 2013

**BOTTINI & BOTTINI, INC.**

2 By: /s/ Francis A. Bottini, Jr.

3 FRANCIS A. BOTTINI, JR.

4 7817 Ivanhoe Avenue, Suite 102

5 La Jolla, CA 92037

6 Tel: (858) 914-2001

7 Fax: (858) 914-2002

8 fbottini@bottinilaw.com

9 *Attorneys for Plaintiff Andrea Bascheri and Jim Chung*

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 DATED: February 14, 2013

**FINKELSTEIN THOMPSON LLP**

2 By: /s/ Rosemary M. Rivas

3 ROSEMARY M. RIVAS

4 505 Montgomery Street, Suite 300

5 San Francisco, CA 94111

6 Tel: (415) 398-8700

7 Fax: (415) 398-8704

8 rrivas@finkelsteinthompson.com

9 **CAFFERTY CLOBES MERIWETHER &  
SPRENGEL LLP**

10 Bryan L. Clobes

11 1101 Market Street, Suite 2650

12 Philadelphia, PA 19107

13 Tel: (215) 864-2800

14 Fax: (215) 864-2810

15 bclobes@caffertyclobes.com

16 Anthony F. Fata

17 30 N. LaSalle Street, Suite 3200

18 Chicago, Illinois 60606

19 Tel: 312.782.4880

20 Fax: 312.782.4485

21 afata@caffertyclobes.com

22 *Attorneys for Plaintiff Joseph Tola*

1 DATED: February 14, 2013

**JOHNSON & WEAVER, LLP**

2 By: /s/ Brett M. Weaver  
3 BRETT M. WEAVER

4 Brett M. Weaver  
5 110 West "A" Street, Suite 750  
6 San Diego, CA 92101  
7 Tel: (619) 230-0063  
8 Fax: (619) 255-1856  
9 brettw@johnsonandweaver.com

10 *Attorneys for Plaintiff Martin Bertisch*

1 DATED: February 14, 2013

**ROBBINS ARROYO LLP**

2 By: /s/ Shane P. Sanders

3 SHANE P. SANDERS

4 Brian J. Robbins

5 Felipe J. Arroyo

6 Shane P. Sanders

7 Kevin S. Kim

8 600 B Street

San Diego, CA 92101

9 Tel: (619) 525-3990

10 Fax: (619) 525-3991

brobbins@robbinsarroyo.com

farroyo@robbinsarroyo.com

ssanders@robbinsarroyo.com

11 kkim@robbinsarroyo.com

12  
13 *Attorneys for Plaintiff Philip Riccardi, Ernesto Espinoza,*  
14 *and the City of Birmingham Retirement and Relief System*

15 **SAXENA WHITE P.A.**

16 Joseph E. White, III

Lester R. Hooker

17 2424 North Federal Highway, Suite 257

18 Boca Raton, FL 33431

19 Tel: (561) 394-3399

20 Fax: (561) 394-3382

jwhite@saxenawhite.com

lhooker@saxenawhite.com

21  
22 *Attorneys for Plaintiff City of Birmingham Retirement and*  
23 *Relief System*

1 DATED: February 14, 2013

**MORGAN, LEWIS & BOCKIUS LLP**

2 By: /s/ Joseph E. Floren

3 JOSEPH E. FLOREN

4 JOSEPH E. FLOREN, State Bar No. 168292

5 CHRISTOPHER J. BANKS, State Bar No. 218779

6 KIM ALEXANDER KANE, State Bar No. 226896

7 MATTHEW S. WEILER, State Bar No. 236052

One Market Street, Spear Street Tower

San Francisco, CA 94105-1126

8 Tel: 415.442.1000 / Fax: 415.442.1001

9 jflore@morganlewis.com

cbanks@morganlewis.com

10 kkane@morganlewis.com

mweiler@morganlewis.com

11 MARC J. SONNENFELD (adm. *pro hac vice*)

12 KAREN PIESLAK POHLMANN (adm. *pro hac vice*)

13 1701 Market Street

Philadelphia, PA 19103-2921

14 Tel: 215.963.5000 / Fax: 215.963.5001

15 msonnenfeld@morganlewis.com

16 kpohlmann@morganlewis.com

17 *Attorneys for Nominal Defendant*

18 *Hewlett-Packard Company*



DATED: February 14, 2013

**SKADDEN ARPS SLATE MEAGHER & FLOM LLP**

By: /s/ Timothy A. Miller  
TIMOTHY A. MILLER

Allen J. Ruby  
Timothy A. Miller  
Richard S. Horvath, Jr.  
525 University Avenue, Suite 1400  
Palo Alto, CA 94301  
Tel: (650) 470-4519  
Fax: (650) 798-6602  
Allen.Ruby@skadden.com  
Timothy.Miller@skadden.com  
Richard.Horvath@skadden.com

*Attorneys for Defendants Marc L. Andreessen, Lawrence T. Babbio, Jr., Sari M. Baldauf, Shumeet Banerji, Rajiv L. Gupta, John H. Hammergren, Raymond J. Lane, Ann M. Livermore, Gary M. Reiner Patricia F. Russo, Dominique Senequier, G. Kennedy Thompson, and Ralph V. Whitworth*

DATED: February 14, 2013

**WILSON SONSINI GOODRICH & ROSATI, P.C.**

BY: /s/ Steven M. Schatz  
STEVEN M. SCHATZ

Katherine L. Henderson  
Bryan J. Kertroser  
Brian Danitz  
650 Page Mill Road  
Palo Alto, CA 94304-1050  
Tel: (650) 493-9300  
Fax: (650) 565-5100  
sschatz@wsgr.com  
khenderson@wsgr.com  
bketroser@wsgr.com  
bdanitz@wsgr.com

*Attorneys for Defendant Catherine A. Lesjak*

1 DATED: January 14, 2013

**FENWICK & WEST LLP**

2 BY: /s/ Kevin P. Muck  
3 KEVIN P. MUCK

4 Marie C. Bafus  
5 Tahir I. Golden  
6 555 California Street, 12th Floor  
7 San Francisco, CA 94104  
8 Tel: (415) 875-2300  
9 Fax: (415) 281-1350  
kmuck@fenwick.com  
mbafus@fenwick.com  
tgolden@fenwick.com

10 *Attorneys for Defendant James T. Murrin*

11 DATED: February 14, 2013

**COOLEY LLP**

12 BY: /s/ John C. Dwyer  
13 JOHN C. DWYER

14 STEPHEN C. NEAL (SBN 170085)  
15 JOHN C. DWYER (SBN 136533)  
16 JEFFREY M. KABAN (SBN 235743)  
17 JEFFREY M. WALKER (SBN 280505)  
18 Five Palo Alto Square  
19 3000 El Camino Real  
20 Palo Alto, CA 94306-2155  
21 Tel: (650) 843-5000  
22 Fax: (650) 849-7400  
23 [nealsc@cooley.com](mailto:nealsc@cooley.com)  
24 [dwyerjc@cooley.com](mailto:dwyerjc@cooley.com)  
25 [jkaban@cooley.com](mailto:jkaban@cooley.com)  
26 [jwalker@cooley.com](mailto:jwalker@cooley.com)

27 *Attorneys For Defendant Margaret C. Whitman*

1 DATED: February 14, 2013

**SHEARMAN & STERLING LLP**

2 BY: /s/ Patrick D. Robbins

3 PATRICK D. ROBBINS

4 Patrick D. Robbins

5 Audrey A. Barron

6 Four Embarcadero Center, Suite 3800

7 San Francisco, CA 94111-5994

8 Tel: (415) 616-1100

9 Fax: (415) 616-1199

10 probbins@shearman.com

11 audrey.barron@shearman.com

12 Alan Goudiss

13 Sara Ricciardi

14 599 Lexington Avenue

15 New York, NY 10022-6069

16 Tel: (212) 848-4000

17 Fax: (212) 848-7179

18 agoudiss@shearman.com

19 sara.ricciardi@shearman.com

20 *Attorneys for Defendant Perella Weinberg Partners LP*  
21 *and Perella Weinberg Partners UK LLP*

1 DATED: February 14, 2013

**WILLIAMS & CONNOLLY LLP**

2 BY: /s/ Steven M. Farina  
3 STEVEN M. FARINA

4 Steven M. Farina  
5 Sarah Lynn Lochner  
6 725 12th Street, N.W.  
7 Washington, D.C. 20005  
8 Tel: (202) 434-5000  
9 Fax: (202) 434-5029  
sfarina@wc.com  
slochner@wc.com

*Attorneys for Defendant KPMG LLP*

11 I, Joseph E. Floren, am the ECF User whose ID and password are being used to file this  
12 Stipulation And [Proposed] Order. In compliance with Local Rule 5-1(i)(3), I hereby attest that  
13 each of the signatories identified above has concurred in this filing.

14 Executed this 14th day of February 2013 at San Francisco, California.

15 /s/ Joseph E. Floren  
16 JOSEPH E. FLOREN

19 **ORDER**

20 Based on the foregoing stipulation of the parties, and good cause appearing,

21 **IT IS SO ORDERED.**

23 DATED: \_\_\_\_\_, 2013

24 THE HONORABLE CHARLES R. BREYER  
25 JUDGE OF THE UNITED STATES DISTRICT COURT

27 DB1/ 73146223.1